

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GARRARD COUNTY WATER ASSOCIATION'S) CASE NO.
WATER LINE EXTENSION POLICY) 89-133

O R D E R

On May 5, 1988, the Consumer Services Branch of the Public Service Commission received an informal complaint call from Armster Bruner regarding his and his partner's, Bruce Mulcahy, request to receive water service to their business, "Bruner and Mulcahy," which is located in the service area of Garrard County Water Association ("Garrard County").

An informal investigation was conducted by Commission Staff at the business offices of Garrard County and Bruner and Mulcahy respectively on August 16, 1988 to provide all parties an opportunity to discuss this matter. Also, the Commission received correspondence from Harold C. Ward, president of Garrard County, and Bruce Mulcahy, co-owner of Bruner and Mulcahy, regarding this matter.

On February 17, 1989, Harold C. Ward requested by letter that the Commission issue a directive stating that Garrard County "must use its power of condemnation where necessary to extend service. . . ." (See Exhibit A). The Commission on its own motion is opening this case in order to respond to Garrard County's

request. Garrard County has not requested a hearing in this matter.

Garrard County has neither offered its single applicants the same benefits as a group of applicants on its right-of-way policy nor acquired necessary rights-of-way upon receipt of an individual applicant's request for service. However, Garrard County does assume the responsibility of right-of-way acquisitions upon receiving a request of service from a group of applicants. (See Exhibit B). The Commission is of the opinion that when rights-of-way are necessary and appropriate for the extension of service to any applicant, it should be the obligation of the utility to acquire such right-of-way since the utility is ultimately responsible for maintenance and operation of all water mains.

IT IS THEREFORE ORDERED that:

1. Garrard County shall serve its individual applicants, including Bruner and Mulcahy, and/or its group applicants, with water service by the most direct and economical manner. This would include Garrard County securing all necessary rights-of-way by payment and/or by exercising its power of eminent domain as allowable by law.

2. Garrard County shall present all applicants for water service with a cost estimate based on the cost per foot of the total extension which shall include not only the construction cost but also any legal, engineering, administrative, land, and right-of-way acquisition costs actually incurred.

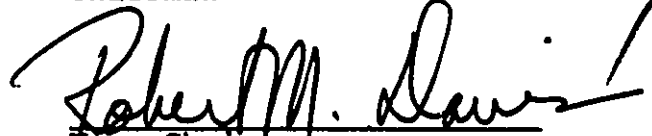
3. Garrard County shall be responsible for 50 feet of each extension per customer, pursuant to 807 KAR 5:066, Section 12.


4. This Order shall not be interpreted as Commission approval of any of Garrard County's regulations.

Done at Frankfort, Kentucky, this 26th day of May, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director

Garrard County Water Association, Inc.

315 LEXINGTON ROAD

LANCASTER, KENTUCKY 40444

TELEPHONE 792-4501

RECEIVED

February 17, 1989

DIVISION OF UTILITY
ENGINEERING & SERVICES

Mr. Claude G. Rhorer, Jr., Director
Division of Utility Engineering and Services
Kentucky Public Service Commission
P.O. Box 615
Frankfort, Kentucky 40602

Re: Complaint Investigation; A. Bruner and B. Mulcahy vs.
The Garrard County Water Association; your letters of
January 18, 1989 and February 3, 1989.

Dear Mr. Rhorer:

Let me thank you for forwarding to us a copy of your letter to Mr. Armster Bruner on December 13, 1988. This utility was not aware of this correspondence until my inquiry and your subsequent letter of January 18, 1989. As well, thank you for your time and interest in our phone discussion of February 3, 1989 and your letter on that same date.

Your letter of February 3rd was very informative. This correspondence and supporting document, as well as a review of the situation by the Association's legal council, reveals to us that this utility should have a more active role in right-of-way acquisition. It would appear that with a directive from the Commission stating that this utility must use its power of condemnation where necessary to extend service that the subject utility would have a binding and legal right to condemn properties as necessary. We therefore ask that you forward to us your letter directing this utility to condemn any right-of-way that is found to be necessary in a distribution line extension if that required right-of-way cannot be acquired by any other reasonable means.

Having found that this one area of this utilities' approach to distribution line extensions is flawed, we would request that the Commission staff review the other steps as outlined in the attached document Regulations....Distribution Line Extensions. This utility and its board of directors would appreciate your comments and suggestions so that we may serve our prospective customers in a fair and equitable manner. The board would also request that in your comments that you state in some detail what expenses must be borne by the utility (other than those as prescribed by Section 12 of KAR 5:066), those expenses that are the responsibility of the "developer", and at what point the "developer" must reimburse (or pre-pay) any expenses incurred by the utility to "investigate" a possible extension at the request of that "developer".

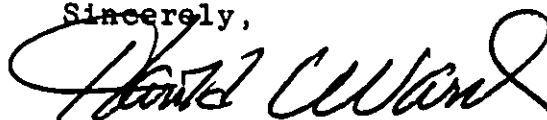
Exhibit A

Page 2

Mr. Claude G. Rhorer, Jr., Director
Kentucky Public Service Commission
Letter of 2-17-89

In making the above request for this board of directors, I realize that you may have further questions or need additional information. Please feel free to contact me if I may be of assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harold C. Ward". The signature is fluid and cursive, with a large loop at the end.

Harold C. Ward
President/Executive Director

HCW/lp

Enclosure

Response of the Garrard County Water Association

to the

Complaint Investigation Report

filed by

The Kentucky Public Service Commission

to the matter of

Mr. Armster Bruner and Mr. Bruce Mulcahy

vs

The Garrard County Water Association

* * * * *

The Complaint Investigation Report (hereinafter "Report") deals with the yet unfulfilled request of Messrs. Armster Bruner and Bruce Mulcahy (hereinafter "Complainant") for water service to their property located on U.S. 27 from the Garrard County Water Association (hereinafter "Garrard County").

The Report is divided into two sections: the investigation of the situation and the conclusions and recommendations as prepared by the Commission. This response will deal with these two sections separately.

Investigation

Garrard County finds that the investigation is basically valid except for two statements. The two incorrect statements need to be corrected as they are relevant to the development and the solution of this matter.

The first incorrect statement says that Mr. Armster Bruner was told by Garrard County that he would be "allowed" water service. The facts here are that Mr. Bruner has never at anytime been

told by any officer, director or employee of Garrard County that water service could be extended to the property in question in a conventional manner. In fact, Mr. Bruner has never in any form communicated with Garrard County on this matter.

The second incorrect statement pertains to Mr. Ford (the adjacent property owner) and the possibility of obtaining right-of-way from him. The statement says that Garrard County has never contacted Mr. Ford as to the possibility of crossing his property to provide water service to the complainant. The facts here are that on his first visit to the property of the complainant in early 1988 to assess the situation, Mr. Harold C. Ward of Garrard County talked to Mr. Ford about the possibility of crossing his property with a waterline to serve the complainant's property. At that time Mr. Ford told Mr. Ward that he would agree to allow a waterline to cross his property to serve the property of the complainant and, perhaps, his own in the future. What has happened since that conversation to change Mr. Ford's mind is unknown to Garrard County.

Conclusions and Recommendations

Garrard County fully agrees that the complainant is within the service area of Garrard County. It is the intent of Garrard County to allow water service to the complainants' property. It is also well established that distribution line will have to be built to the complainants' property so that they may be afforded water service. This will need to be accomplished with the standard procedures as established by Garrard County in the handling of all such extensions. Please find attached a copy of Regulations Regarding Distribution Line Extensions for your reference.

Garrard County disagrees with the recommendation that this utility be responsible to acquire right-of-way to the complainants' property.

Acquisition of rights-of-way falls into two basic categories: those that are acquired to serve a general need or purpose and those that are needed to serve purely an individual need or purpose. Garrard County has always assumed the responsibility of right-of-way acquisition for distribution line that will serve a host of individuals, farms and businesses. Garrard County does not feel that it is its responsibility to acquire right-of-way for a distribution line that will serve an individual need or development. However, Garrard County does reserve the right of final determination of the feasibility of a proposed right-of-way since it is ultimately responsible for the maintenance and operation of the water distribution line to be installed. General consultation is always available from Garrard County to anyone proposing a waterline extension. Garrard County has also established a bonding safe-guard to insure property owners whose property is crossed that their property will be restored in an acceptable manner.

Once a right-of-way is established for a proposed line extension, Garrard County will assist the individual or developer in determining his construction costs. However, Garrard County does not consider the "bidding" of an extension its obligation. Garrard County does reserve the final determination in evaluating construction costs as to their reasonableness. Garrard County provides written construction standards that assist the developer in arriving at his construction costs.

Garrard County does and will be responsible for 50 feet of the construction per customer as prescribed by Section 12 of 807 KAR 5:066.

The Garrard County Water Association has developed its procedures in handling waterline extensions over the last three or four years. We find that our procedures are very workable and fair to all parties involved.

Garrard County sees no underlying reason or regulation to view the extension in question to be any different than the many that have been built using the format in place. One of the complainants, Mr. Bruner, finished a subdivision in Garrard County's service area some two years ago in the manner as prescribed by Garrard County. The project was successfully completed and no procedural problems were evident then or now.

We feel that the Association has given an inordinate amount of time, expense and attention to this situation that seems only to drag on because Messrs. Bruner and Mulcahy do not want to face the facts of their situation. It is the desire of the board of directors of this Association to bring this matter to a swift conclusion.

Garrard County Water Association, Inc.

315 LEXINGTON ROAD

LANCASTER, KENTUCKY 40444

TELEPHONE 792-4501

REGULATIONS OF GARRARD COUNTY WATER ASSOCIATION REGARDING DISTRIBUTION LINE EXTENSIONS MADE FOR INDIVIDUAL RESIDENCES AND SUBDIVISIONS

A. The following regulations address approval of any extension and require compliance prior to the initiation of any construction by a developer.

1. Three copies of the plat of the proposed extension shall be submitted to the Association. These shall be submitted to the Association's engineering firm for comments in design and compatibility to the existing system. Said plats must bear the seal of a civil engineer.

2. Following approval or revision by the Association's engineering firm, said plats must be submitted to the Division of Water in Frankfort for approval. This submittal will be handled by the Association's office.

3. Costs of the proposed extension shall be submitted to the Association on a "line item basis." Each item in the proposed construction shall have an exact cost stated. These costs shall require approval by the Board of Directors of the Garrard County Water Association.

4. All right-of-way easements shall be drawn in proper legal form and submitted to the Association. Right-of-way easements shall extend to the boundaries of the property or properties involved.

5. The party or parties involved with the proposed extension shall enter into a binding agreement with the Association stating the nature of the extension and the duties and responsibilities of both the developer and the Association.

6. Following satisfactory completion of the above regulations the Board of Directors shall then give final approval to the proposed extension provided no circumstances exist making delay prudent. Construction may begin with written notice from the Association. The Association reserves the right to require at its discretion a performance or cash bond should the Board of Directors deem it necessary and proper.

B. Construction standards and requirements:

1. Distribution line will be sized to the requirements of

the proposed project and will be a minimum of 4 inch pipe with 160 P.S.I. rated or greater if pressures dictate. Line size greater than 4 inch may be required to accommodate future extension(s).

2. Distribution line will be installed with a minimum of 30 inches of cover. All line will be bedded top and bottom with 6 inches of clean dirt, or if unavailable, #11 grave. All rock areas will require the #11 gravel.

3. All tees and ells will be cast iron type and installed with concrete blocking.

4. Valves will be iron body type with operating nut installed with a steel valve box. Concrete blocking will be required as needed.

5. All taps and final connections will be observed by Garrard County Water Association personnel to insure the integrity of the existing system.

6. Construction inspection will be done by Association personnel. All construction must be observed by the inspector prior to backfilling. An inspection charge of \$20.00 per hour will be the responsibility of the developer.

7. When all construction is in place the new line will be pressure tested for a minimum of 8 hours. The new line must be flushed and then sterilized and reflushed. Association personnel will take a water sample for analysis. New line will be put in service only after a clean test. All costs of flushing and testing will be the responsibility of the developer.

8. The developer will be held financially responsible to ensure that all of the above guidelines are followed and to inform his contractor of these requirements.

9. The developer will be responsible for maintenance costs and water lost due to a rupture or break in the extension for one year following the date of completion of the extension. At the end of the one year period mentioned herein the developer will convey the extension to the Association, at which time the Association will assume ownership and be responsible for maintaining the line.

10. In some situations the Association may require the developer to install meter sets at the same time distribution line is installed (generally in "enclosed" sub-divisions with streets and curbing). Meter sets will have the following requirements: Concrete meter boxes, 200 P.S.I. flexible service line, corporation stops on saddles, and copper setters must have a locking device and check-valve incorporated in them.

(Specifications subject to change without notice)